

**REMARKS**

Claims 1, 2, 4-18 and 20-31 remain pending in the present application. Claims 1 and 17 have been amended. Claims 3 and 19 have been canceled.

The Office Action rejected Claims 1 and 17 under 35 U.S.C. §103(a) as being unpatentable over Cellario (U.S. 5,548,680) in view of Taniguchi et al. (EP Patent 0417 739 A2).

The limitation of Claim 3 has been added to Claim 1, where the limitation "or a NELP encoder mode" in original Claim 3 was changed to "and a NELP encoder mode."

The Office Action rejected Claims 3-4 and 19-21 under 35 U.S.C. 103(a) as being unpatentable over Cellario (U.S. 5,548,680) in view of Taniguchi et al. (EP Patent 0 417 739 A2), as applied to claims 1 and 17 above, further in view of DeJaco (U.S. Patent 5,911,128).

The present application claims priority to U.S. Patent Application No. 09/217,341, filed on Dec. 21, 1998, which is prior to the June 8, 1999 issue date of DeJaco. Thus, DeJaco only qualifies as a 103/102(e) reference and is assigned to the same assignee, Qualcomm, as the present application. Under 35 USC 103(c), DeJaco should be excluded as a 35 USC 103 reference.

However, DeJaco was published as a PCT application on 2/15/1996 with publication number WO1996/004646.

Assuming this published DeJaco PCT application qualifies as a 35 USC 103 reference, three criteria must be met to establish a prima facie case of obviousness. MPEP 706.02(j). First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be reasonable expectation of success. Finally, the prior art reference, or references when combined, must teach or suggest all of the claim limitations.

There is no motivation or reasonable expectation of success to combine Cellario, Taniguchi and DeJaco.

More importantly, the combination of Cellario, Taniguchi and DeJaco does not teach or suggest all limitations of Claim 1. Specifically, the combination of Cellario, Taniguchi and DeJaco does not teach "selecting an encoder mode from a plurality of parallel encoder modes, wherein selecting the encoder mode is based on whether the speech signal is active or inactive,

and if active, based further on said type of active speech, wherein said plurality of parallel encoder modes comprises a code excited linear prediction (CELP) encoder mode, a prototype pitch period (PPP) encoder mode, and a noise excited linear prediction (NELP) encoder mode," as recited in Claim 1.

As the Office Action stated, Cellario does not teach a "CELP encoder mode," as recited in Claim 1. Cellario mentions "pitch period" (col. 2, lines 9-12), but does not teach "a prototype pitch period (PPP) encoder mode," as recited in Claim 1. Cellario also does not teach "a noise excited linear prediction (NELP) encoder mode," as recited in Claim 1.

Taniguchi (p. 6, line 39) and DeJaco (col. 7, line 24) mention a "CELP coder," but do not teach "a prototype pitch period (PPP) encoder mode," as recited in Claim 1. Taniguchi and DeJaco also do not teach a "noise excited linear prediction (NELP) encoder mode," as recited in Claim 1.

Thus, Claim 1 and its dependent claims should be allowable over Cellario, Taniguchi and DeJaco.

For at least the reasons stated above, Claim 17 and its dependent claims should be allowable over Cellario, Taniguchi and DeJaco.

Applicants respectfully note that Applicants' Remarks submitted on 6/15/05, page 9, lines 28-29 do not mention "hard-wired encoders," as suggested by the Office Action, pages 2 and 4. "Encoder modes" in Claim 1 are intended to cover software, hardware and possible combinations of software and hardware.

Claims 2 and 18 were rejected under 35 U.S.C. §103(a) as being unpatentable over Cellario (U.S. 5,548,680) in view of Taniguchi et al. (U.S. EP Patent 0 417 739 A2) as applied to claims 1 and 17 above, further in view of Weaver et al. (U.S. 5,956,673).

Claims 2 and 18 depend from Claims 1 and 17 respectively and should be allowable for at least the reasons stated above.

Claims 3-4 and 19-21 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cellario (U.S. 5,548,680) in view of Taniguchi et al. (EP Patent 0 417 739 A2), as applied to claims 1 and 17 above, further in view of DeJaco (U.S. Patent 5,911,128).

Claims 3 and 19 have been canceled. Claims 4, 20 and 21 depend from Claims 1 and 17 respectively and should be allowable for at least the reasons stated above.

Claims 5 and 22 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cellario (U.S. 5,548,680) in view of Taniguchi et al. (EP Patent 0 417 739 A2) further in view of DeJaco (U.S. 5,911,128), as applied to claims 4 and 21 above, further in view of Weaver et al. (U.S. 5,956,673) and further in view of De Martin (IEEE Conference on Acoustics, Speech and Signal Processing, May 1996).

Claims 5 and 22 depend from Claims 1 and 17 respectively and should be allowable for at least the reasons stated above. Furthermore, there is no motivation in the art to combine Cellario, Taniguchi, DeJaco, Weaver and De Martin without impermissibly using Applicants' own application as a blueprint. There is also no reasonable likelihood of success to combine Cellario, Taniguchi, DeJaco, Weaver and De Martin.

Claims 6 and 23 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cellario (U.S. 5,548,680) in view of Taniguchi et al. (EP Patent 0 417 739 A2) further in view of DeJaco (U.S. 5,911,128) as applied to claims 3 and 19 above, further in view of Massaloux (U.S. 5,812,965).

Claims 6 and 23 depend from Claims 1 and 17 respectively and should be allowable for at least the reasons stated above.

Claims 7-8 and 24-25 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cellario (U.S. 5,548,680) in view of Taniguchi et al. (EP 0 417 739 A2) and further in view of Iijima et al. (U.S. 5,909,663).

Claims 7-8 and 24-25 depend from Claims 1 and 17 respectively and should be allowable for at least the reasons stated above.

Claims 9 and 26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cellario (U.S. 5,548,680) in view of Taniguchi et al. (EP 0 417 739 A2) further in view of Iijima et al. (5,909,663) as applied to claims 8 and 25 above, and further in view of Atal (U.S. 4,764,963).

Claims 9 and 26 depend from Claims 1 and 17 respectively and should be allowable for at least the reasons stated above.

Claims 10 and 11 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cellario (U.S. 5,548,680) in view of Taniguchi et al. (EP 0 417 739 A2) further in view of Swaminathan et al. (U.S. 5,734,789).

Claims 10 and 11 depend from Claims 1 and 17 respectively and should be allowable for at least the reasons stated above.

Claims 12-16 and 27-31 were rejected under 35 U.S.C. 103(a) as being unpatentable over Cellario (U.S. 5,548,680) and Taniguchi et al., as applied to claims 1 and 17 above, in view of Swaminathan et al. (U.S. 5,734,789) further in view of DeJaco (U.S. 5,911,128) and further in view of Massaloux (U.S. 5,812,965).

Claims 12-16 and 27-31 depend from Claims 1 and 17 respectively and should be allowable for at least the reasons stated above.

### REQUEST FOR ALLOWANCE

In view of the foregoing, Applicant submits that all pending claims in the application are patentable. Accordingly, reconsideration and allowance of this application are earnestly solicited. Should any issues remain unresolved, the Examiner is encouraged to telephone the undersigned at the number provided below.

Respectfully submitted,

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